

## **Remarks**

### **Status of the Application**

Prior to entry of this amendment, claims 19, 25-27 and 30-36 were pending. The Office Action mailed March 5, 2010 rejected claims 19, 25-27 and 30-36 under § 103(a) as being unpatentable over McKissick (U.S. Publication No. 2007/0124795), in view of Houghton (U.S. Publication No. 2002/0124247).

This paper amends claims 30 and 34. No claims have been added or canceled. Hence, after entry of this paper, claims 19, 25-27 and 30-36 will stand pending for examination. Claim 30 is the only independent claim.

### **Claim Amendments**

Claim 30 has been amended to recite "a set top box for each of the users, wherein the set top box for each user executes an IM application and receives a broadcast television program as a digital video stream comprising a program ID identifying the television program, wherein the set top box captures the program ID from the digital video stream." Support for this amendment can be found throughout the application, including inter alia, in former claim 34 (and the portions of the application supporting that claim), as well as in paragraph 0036 of the specification.

Claim 34 has been amended for consistency with claim 30 and to remove redundant elements.

### **Rejections under 35 U.S.C. § 103**

#### ***Claims 19, 25-27 and 30-36***

Claims 19, 25-27 and 30-36 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over McKissick (U.S. Publication No. 2007/0124795), in view of Houghton (U.S. Publication No. 2002/0124247). Claim 30 has been amended, and it is submitted that claim 30, at least as amended is allowable over the combination of McKissick and Houghton. Claims 19, 25-27, and 31-26 are believed to be allowable at least by virtue of their ultimate dependence from claim 30.

Claim 30 recites, inter alia, "a set top box for each of the users, . . . wherein the set top box captures the program ID from the digital video stream." Neither McKissick nor Houghton discloses this element.

In rejecting prior claim 34, the Office Action asserted, "McKissick discloses . . . a set top box for each of the users and for executing the IM application, wherein the set top box receives the broadcast television program and the program ID identifying the television program, wherein the IM application captures the program ID at the set top box." Office Action at 6, ¶ 12 (citing McKissick, Fig. 4 and ¶¶ 130-21).

McKissick, however, does not disclose the recited element of claim 30, however. Claim 30 requires the set top box to capture the program ID **from the digital video stream**. McKissick, on the other hand, teaches a technique whereby,

The set-top box application may determine the current program by accessing the database of program listings information stored in memory 25 or on a remote server. The set-top box application may also determine the current program by accessing a database (e.g., a program listings database stored locally on the set-top box or on a server) and using information on the current time (e.g. which the set-top box or server has access to using a clock), and the current channel (known from the state of the tuner in set-top box 26).

McKissick, ¶ 0131.

Thus, rather than disclosing a broadcast program that is part of a digital video stream from which a program ID can be captured, McKissick teaches a database lookup to determine the identification of the program (for example, based on the channel and time). This is a fundamentally different technique than that recited by claim 30. Indeed, because McKissick discloses that the video received by the set top box may be an analog signal (see, e.g., McKissick, ¶ 0054), one skilled in the art would appreciate that program information could not be extracted from such a signal, and that alternative techniques, such as the database lookup techniques disclosed by McKissick, would have to be used to reliably identify the television program.

For at least this reason, the combination of McKissick and Houghton fails to disclose every element of claim 30, and claim 30 therefore is believed to be allowable over that

combination of references. As noted above, claims 19, 25-27, and 31-26 are believed to be allowable at least by virtue of their ultimate dependence from claim 30.

#### Conclusion

Applicant believes that the pending claims are in condition for allowance. If it would be helpful to obtain favorable consideration of this case, the Examiner is encouraged to call and discuss this case with the undersigned.

This paper constitutes a request for any needed extension of time and an authorization to charge all fees therefore to deposit account No. 19-5117, if not otherwise specifically requested. The undersigned hereby authorizes the charge of any fees created by the filing of this document or any deficiency of fees submitted herewith to be charged to deposit account No. 19-5117.

Respectfully submitted,

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